

ATTORNEY INSTRUCTIONS RE: TAX RETURNS

Initial Pre-Petition Federal Tax Returns - 11 USC Sec. 521(e)(2)(A)

1. Effective Date, Deadlines and Rules

a. All Individual Chapter 7 & 13 petitions filed on or after Oct. 17, 2005

b. Debtor Provides to Trustee:

1. Federal tax return for most recent year in which a return was filed no later than 7 days before the date first set for the Section 341 Meeting, including attachments, or
2. A transcript of the tax return, or
3. A written statement that documentation does not exist

Filing pre-petition tax return/statement with court does not satisfy requirement of filing them with the Trustee

c. Debtor Provides to Requesting Creditor/Party in Interest (Request to Debtor must be made at least 15 days prior to 341 Meeting):

1. Federal tax return for most recent year in which a return was filed no later than 7 days before the date first set for the Section 341 Meeting, including attachments, or
2. A transcript of the tax return, or
3. A written statement that documentation does not exist

d. Debtor **may** file a Certificate of Service of Tax Documents to Requestor (Category: Other)

Failure to provide tax return/statement to the trustee/creditor may result in dismissal of the case by the court upon motion, unless debtor demonstrates failure to comply was due to circumstances beyond debtor's control.

e. Pertinent Rules: FRBP 4002, LBR 4002-3

f. Do NOT file pre-petition tax returns with the Court!

1. If pre-petition tax return is filed with the Court in error, it will be accepted. View access restricted to Court Users only (level 30). **Debtors have sole responsibility to redact personal identifiers in any tax document filed**

with the court!

Federal Tax Returns - Post-Petition - 11 USC Sec. 521(f)

1. Effective Date, Deadlines and Rules

a. At the written request of the Court, US Trustee, or a Party in Interest, for Individual Chapter 7, 11 or 13 petitions filed on or after October 17, 2005

1. Debtor must file with the Court (simultaneous to filing with the taxing authority), a copy of a Federal Income Tax Return (or transcript) for each tax year ending while the case is pending;

2. Debtor must file with the Court (simultaneous to filing with the taxing authority), a copy of any previously due Federal Income Tax Return (or transcript) that had not been filed with the IRS as of the date of commencement of the case, for any tax year ending in the three years before the case began.

3. Copies of any amendments to Federal Returns under 1 & 2 above;

4. Debtors have sole responsibility to redact personal identifiers in any tax document filed with the court!

b. In a Chapter 13 case (at written request of the Court, US Trustee or Party in Interest), debtor must file a (1) Statement of Debtor's Income and Expenditures during the tax year most recently concluded before such statement is filed and the (2) Debtor's Monthly Income

1. Statements due on the date that is 90 days after the tax year's end, or one year after case commencement if plan is not confirmed before such later date;

2. Annually after plan is confirmed and until the case is closed (the filing of the tax returns should be no later than 45 days before the anniversary of plan confirmation).

c. Pertinent Rules: FRPB 4002, LBR 4002

d. Debtors have sole responsibility to redact personal identifiers in any statements filed with the court!

2. Request by Party in Interest for Debtor to File Post Petition Tax Returns (Local Form G.1 or G.2)

a. File a Request for Copy of Debtor's Tax Information (Category:

Other)

1. Must include Certificate of Service to Debtor and Debtor's attorney
2. Must include Pains/Penalty/Perjury language that requestor is a party in interest

b. Specify which Tax Documents in docket text and in Form G.1/G.2.

3. Interested Party Motion for Access to Debtor's Tax Information (Local Form H.1 or H.2)

a. File Motion for Access to Debtor's Tax Information (Category: Motions/Applications) - must include:

1. Certificate of Service to Debtor, Debtor's attorney and Trustee
2. Pains/Penalty/Perjury language that requestor is a party in interest
3. Must Use Local Form H.1 or H.2, which shall include:

- a. A description of specific tax information sought
- b. Statements demonstrating a need for the tax information, and that it cannot be obtained from any other source.
- c. Preferred method of transmission

b. Event will set a 13 day objection deadline

c. Specify which tax years in docket text and in Form H.1/H.2.

d. If granted, Court will serve specified tax documents by method designated in the Motion for Access.

A Motion for Access to Debtor's Tax Information must be filed each time you wish to view specific tax returns - it is not a blanket motion!

4. Debtor's Responsibility

a. File Tax Documents using Tax Documents event (Category: Other)

1. Event includes prompt for the tax year
2. View access is restricted to Court Users

3. See deadlines in Section 1 of this document

4. Debtors have sole responsibility to redact personal identifiers in tax returns filed with the court!

5. New Events

- a. Request for Copy of Debtor's Tax Information
- b. Tax Documents
- c. Motion for Access to Tax Information - Tax information will not be available for inspection/copying until after Motion for Access is granted
- d. Certificate of Service of Tax Information to Requestor - for Debtor's use when pre-petition tax information is served at the request of an interested party.
- e. Motion to Delay Discharge (for debtor's failure to file tax documents)

6. New Local Forms

- a. Request Directing Debtor to File Post Petition Tax Returns (Local Form G.1 or G.2)
- b. Motion by Party in Interest for Access to Tax Information (Local Form H.1 or H.2)

Rev. 10/12/05

(LBR 9004-1re Redaction of Personal Identifiers Attached)

RULE 9004-1

**TREATMENT OF PERSONAL DATA IDENTIFIERS
CONSISTENT WITH JUDICIAL CONFERENCE PRIVACY
POLICY**

(a) Privacy Considerations. In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court.

(1) Social Security numbers. If an individual's social security number must be included in a pleading, only the last four digits of that number should be used.

(2) Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used. On Schedule I of Official Bankruptcy Form 6, list relationship and age of the debtor's dependents (i.e., son, age 6).

(3) Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used. On Schedule I of Official Bankruptcy Form 6, list the age of each of the debtor's dependents.

(4) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used. On Schedules D, E, and F of Official Bankruptcy Form 6, debtors, if they so choose, may include their full account numbers to assist the trustee and creditors.

(b) In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

(1) file an unredacted version of the document under seal, or

(2) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or reference list shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file.

(c) The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.